

**Assembly Bill No. 1677**

\_\_\_\_\_

Passed the Assembly    August 31, 2002

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate    August 28, 2002

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2002, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

Corrected 9-17-02



## CHAPTER \_\_\_\_\_

An act to amend Sections 221, 512, and 2674.1 of, to add Sections 512.5 and 1172 to, and to repeal and add Section 515.6 of, the Labor Code, relating to employment.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1677, Koretz. Working conditions.

(1) Existing law prohibits an employer from collecting or receiving any portion of the wages paid by the employer to an employee.

This bill would create a state-mandated local program in that it would prohibit employers from charging their employees a fee for cashing an employee's payroll check, subject to misdemeanor penalties contained in existing law.

(2) Existing law requires employers to provide meal periods to employees during work periods of specified durations longer than certain specified lengths.

This bill would exempt employers from the meal period requirement for certain employees in the wholesale baking industry who are covered by a valid collective bargaining agreement that contains specified terms.

(3) Existing law requires private employers to provide meal periods and rest breaks at certain intervals to employees who operate commercial motor vehicles.

This bill would require that public employees who operate commercial motor vehicles be subject to the same regulations regarding meal and rest periods as their private employee counterparts, or to receive equivalent protections through a collective bargaining agreement.

(4) Existing law establishes specific requirements relating to the wages, hours and working conditions of employees in this state.

This bill provides that the requirements relating to working hours do not apply to an employee who is a licensed physician or surgeon, with specific requirements.

This bill would define the term "hours worked," as used in regulations and orders adopted pursuant to existing law, to mean the time during which an employee is subject to the control of the



employer, including all of the time that the employee is suffered or permitted to work, regardless of whether the employee is required to work.

(5) Existing law requires the Labor Commissioner to appoint an advisory committee on garment manufacturing.

This bill would require the commissioner to make the appointments to the garment manufacturing advisory committee by no later than January 31, 2002.

The bill would also make technical, nonsubstantive changes to existing law.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 221 of the Labor Code is amended to read:

221. (a) It is unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by the employer to the employee.

(b) It is unlawful for any employer or agent of an employer to charge a fee for cashing a payroll check.

SEC. 2. Section 512 of the Labor Code is amended to read:

512. (a) An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.



(b) Notwithstanding subdivision (a), the Industrial Welfare Commission may adopt a working condition order permitting a meal period to commence after six hours of work if the commission determines that the order is consistent with the health and welfare of the affected employees.

(c) Subdivision (a) does not apply to an employee in the wholesale baking industry who is subject to an Industrial Welfare Commission Wage Order and who is covered by a valid collective bargaining agreement that provides for a 35-hour workweek consisting of five seven-hour days, payment of time worked in excess of a seven-hour day at the rate of one and one-half times the regular rate of pay, and a rest period of no less than 10 minutes every two hours.

SEC. 3. Section 512.5 is added to the Labor Code, to read:

512.5. (a) An employee of a public agency who operates a commercial motor vehicle is subject to the same regulations of the Industrial Welfare Commission regarding meal periods and rest breaks as employees of a private employer engaged in the same occupation. However, nothing in this section prohibits a public agency and a labor organization representing commercial drivers from establishing, pursuant to a valid collective bargaining agreement, an alternative schedule of meal periods and rest breaks that provides equivalent protection to employees.

(b) For purposes of this section, “public agency” means the State of California and any political subdivision thereof, including any city, county, or special district.

(c) For purposes of this section, “commercial motor vehicle” has the same meaning as provided in subdivision (b) of Section 15210 of the Vehicle Code.

(d) For the purposes of this section, “equivalent protection” means that meal periods and rest breaks are the same duration as those provided under the wage orders of the Industrial Welfare Commission and these meal periods and rest breaks are considered hours worked.

SEC. 4. Section 515.6 of the Labor Code, as added by Section 3 of Chapter 148 of the Statutes of 2001, is repealed.

SEC. 5. Section 515.6 is added to the Labor Code, to read:

515.6. (a) Section 510 does not apply to an employee who is a licensed physician or surgeon who is primarily engaged in duties that require licensure pursuant to Chapter 5 (commencing with



Section 2000) of Division 2 of the Business and Professions Code, and whose hourly rate of pay is equal to or greater than fifty-five dollars (\$55.00). The Division of Labor Statistics and Research shall adjust this threshold rate of pay each October 1, to be effective the following January 1, by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

(b) The exemption provided in subdivision (a) does not apply to an employee employed in a medical internship or resident program or to a physician employee covered by a valid collective bargaining agreement pursuant to Section 514.

SEC. 6. Section 1172 is added to the Labor Code, to read:

1172. For the purpose of regulations and orders adopted pursuant to this chapter, “hours worked” means the time during which an employee is subject to the control of the employer and includes all of the time that the employee is suffered or permitted to work, regardless of whether the employee is required to work.

SEC. 7. Section 2674.1 of the Labor Code is amended to read:

2674.1. The commissioner shall, not later than January 31, 2003, appoint an advisory committee on garment manufacturing to advise him or her of common industry problems and to effect liaison between his or her office and various segments of the industry. The committee shall consist of a cross section of the industry and shall include representatives of unions, employees, contractor associations, jobbers, and manufacturers.

SEC. 8. Section 6 of this act is declarative of existing law and shall not be deemed to alter, modify, or otherwise affect any provision of existing law or any wage order of the Industrial Welfare Commission.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 2002

\_\_\_\_\_  
*Governor*

